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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,830	09/19/2003	Scott R. Shaw	708493.4006	6012
34313	7590	04/06/2005	EXAMINER	
ORRICK, HERRINGTON & SUTCLIFFE, LLP			CHIESA, RICHARD L	
4 PARK PLAZA			ART UNIT	PAPER NUMBER
SUITE 1600				
IRVINE, CA 92614-2558			1724	

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/665,830	SHAW, SCOTT R.	
	Examiner Richard L. Chiesa	Art Unit 1724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on April 23, 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3,4 and 6 is/are rejected.
- 7) Claim(s) 2 and 5 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 April 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Drawings

1. The new drawings were received on April 23, 2004. These drawings are accepted by the examiner.

Specification

2. The disclosure is objected to because the word "which" on the seventh line of paragraph [0042] on page 15 in the specification should apparently be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 102/103

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, and 6 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent Application Publication No. 2003/0168752 to Nonaka. Nonaka shows in Figures 1-4 a diaphragm carburetor with an air intake pathway 2, constant fuel chamber 9, diaphragm 8, butterfly throttle valve 5, valve stem 4, air-fuel pathway 20, fuel nozzle 11, metering pin 21, arc-shaped cam 25, and actuating member 27 (note claims 1 and 6 on page 4).

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nonaka in view of U.S. Patent No. 3,684,257 to Lawrence. Nonaka, as described above in paragraph 5, discloses a diaphragm carburetor substantially as claimed. It would appear that Nonaka may not explicitly state that the fuel nozzle may be moveably mounted. However, Lawrence (note Figure 2) teaches the well-known use of a moveably mounted fuel nozzle 18 in a carburetor for the purpose of ensuring accurate axial positioning (note col. 3, lines 25-35). Consequently, it would have been readily obvious to one having ordinary skill in the art to employ a moveably mounted fuel nozzle in the Nonaka carburetor in order to facilitate accurate positioning as taught by Lawrence.

Allowable Subject Matter

7. Claims 2 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. It is noted that the use of the words "type" and "like" throughout the claims is unnecessary and may actually be somewhat confusing. For example, the words "diaphragm-type", "butterfly-type", and "tube-like" should apparently read --diaphragm--, --butterfly--, and --tube--, respectively.
8. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These references have been cited as art of interest to show other carburetors.
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Chiesa whose telephone number is (571) 272-1154. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane S. Smith, can be reached at (571) 272-1166.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1700 receptionist whose telephone number is (571) 272-0987.

Facsimile correspondence must be transmitted through (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard L. Chiesa

April 4, 2005

Richard L. Chiesa

RICHARD L. CHIESA
PRIMARY EXAMINER
ART UNIT 1724

April 4, 2005